

Remarks

Reconsideration of the above-identified patent application is respectfully requested in view of the present amendment.

The Office rejected claims 11-23 under 35 U.S.C. § 101 for double patenting. Applicant asserts that its claim amendments remedy the Office's rejection.

The Office further rejected claims 1-10 under the doctrine of obviousness-type double patenting over claims 1 and 1-14 of the '818 patent in view of Fields Virology. Applicant respectfully disagrees with the Office's rejection.

Claims 1-10 are directed to measuring the level of HCMV and EBV by measuring nonstructural epitopes for incomplete virus multiplication. Since neither the '818 patent nor the Field reference either suggest or mention the use of this measurement technique to diagnose chronic fatigue syndrome, Applicant asserts that there is no motivation to combine these references, and thus claims 1-10 are non-obvious. Moreover, Applicant asserts that even on combination, the references do not teach the use of non-structural epitope measurement to assist in the diagnosis of chronic fatigue syndrome. Accordingly, Applicant requests withdrawal of the rejection of claims 1-10.

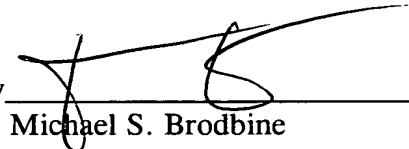
Applicant respectfully requests that claims 1-10 proceed to issuance. The Office is invited to contact the undersigned if there are any questions.

A check in the amount of \$475 is enclosed to cover the Petition fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978 — a duplicate of this paper is enclosed for that purpose.

Respectfully submitted,

A. Martin Lerner

By

A handwritten signature in black ink, appearing to read 'Michael S. Brodbine', is written over a horizontal line.

Michael S. Brodbine

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Date: November 7, 2003

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